

PROB 12B
(7/93)

United States District Court

Clerk
District Court

for

FEB - 9 2006

the Northern Mariana Islands

For The Northern Mariana Islands
By _____
(Deputy Clerk)Report for Modifying the Conditions or Term of Supervision
with Consent of the Offender

(Probation Form 49, Waiver of Hearings is Attached)

Name of Offender: **Joaquin Dela Cruz Cangco** Case Number: **CR 00-00017-001**Name of Sentencing Judicial **Alex R. Munson**Date of Original Sentence: **November 14, 2000**Original Offense: **Interference with Commerce by Robbery, in violation of 18 U.S.C. § 1951**

Original Sentence: 48 months imprisonment followed by a three year term of supervised release with conditions to include: obey all federal, state, and local laws; not possess a firearm or other dangerous weapon; not use or possess any illegal controlled substance unless prescribed by a licensed physician, and submit to one urinalysis within 15 days after release from imprisonment and to two more urinalysis within 60 days thereafter; refrain from use of any and all alcoholic beverages; participate in a substance abuse treatment program approved by the U.S. Probation Office for the treatment of narcotic addiction or drug or alcohol dependency which will include testing for the detection of substance use or abuse, and make co-payment for treatment at a rate to be determined by the U.S. Probation Office; undergo a mental health assessment approved by the U.S. Probation Office, and submit to any recommended treatment as a result of that assessment, and make payment for treatment at a rate to be determined by the U.S. Probation Office; obtain and maintain gainful employment; perform 300 hours of community service under the direction of the U.S. Probation Office; pay restitution jointly and severally with co-defendants. Restitution shall be paid to the Clerk of court, United States District Court of the Northern Mariana Islands, 2nd Floor, Horiguchi Building, P.O. Box 500687, Saipan, MP 96950, and shall be disbursed to the following victims: Mohammed Ashik Elahi, \$800; Kim You K. Young, \$5,100; Lin Mei Huang and Chua Yeow Chue, \$817. **Conditions modified on June 23, 2004 to include 100 hours of community service.**

Type of Supervision: **Supervised Release** Date Supervision Commenced: **February 11, 2004**Assistant U.S. Attorney: **Timothy E. Moran** Defense Attorney: **Douglas Cushnie**

PETITIONING THE COURT

- ☐ To extend the term of supervision for _____ years, for a total term of _____ years.
- ☒ To modify the conditions of supervision as follows:

CAUSE

- The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer.

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On September 2, 2005, the Ninth Circuit, in *United States v. Stephens*, No. 04-50170, addressed 18 U.S.C. § 3583(d) supervised release and 18 U.S.C. § 3563(a)(5) probation mandatory testing conditions which requires that the district court determine the maximum number of mandatory drug tests. The Ninth Circuit held that because the statute requires the district court to determine the maximum number of drug tests under the mandatory condition, transferring this duty to the probation officer was an improper delegation of Article III judicial power.


To assist the Court in determining the appropriate number of drug tests, the undersigned officer has evaluated Joaquin Cangco's history of drug use, and the drug detection period of his drug of choice. As methamphetamine is considered one of the drugs of choice and has a normal detection period of four days or less, it is recommended that the maximum number of tests the court order per month be set at eight. This will allow for adequate time intervals between tests which will help facilitate the detection of use. It also provides for enough additional tests so that the pattern of testing will not be predictable to the offender.

To address the implications of *United States v. Stephens* Ninth Circuit No. 04-50170, it is respectfully requested that the Court modify Mr. Cangco's mandatory condition to set the maximum number of tests he must submit. It is therefore recommended that the mandatory condition be modified as follows:

"The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer."

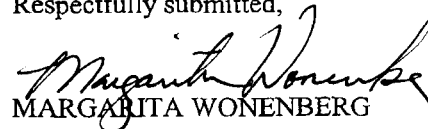
Joaquin Cangco has agreed to the above modification and attached is a Probation From 49 Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision with his consent.

Reviewed by:


ROSSANNA VILLAGOMEZ-AGUON
U.S. Probation Officer
Supervision Unit Leader

Date: 2/7/06

Respectfully submitted,

by: 
MARGARITA WONENBERG
U.S. Probation Officer

Date: 2/8/06

THE COURT ORDERS

- ☐ No Action
- ☐ The Extension of Supervision as Noted Above.
- ☒ The Modification of Conditions as Noted Above.
- ☐ Other


Signature of Judicial Officer

2-9-06
Date

PROB 49
(3/89)

United States District Court

for


District of Northern Mariana Islands


**Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

That the defendant shall refrain from any unlawful use of a controlled substance, and shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer;

Witness: 
Margarita D.L.G. Wonenberg
U.S. Probation Officer

Signed: 
Joaquin DLC Cangco
Probationer or Supervised Releasee

-1-28-06
Date